

ASSEMBLY BILL

No. 1543

Introduced by Assembly Member Brough
(Principal coauthor: Assembly Member Hadley)
(Coauthors: Assembly Members Harper and O'Donnell)
(Coauthor: Senator Bates)

May 20, 2015

An act to amend Section 597 of the Penal Code, relating to animals, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1543, as introduced, Brough. Animals: abuse.

Existing law prohibits, subject to exceptions, specified acts of animal abuse including, among others, the malicious and intentional maiming, mutilation, torture, or wounding of a living animal. Under existing law, a violation of those provisions is punishable as a felony by imprisonment in a county jail for 16 months, or 2 or 3 years, or by a fine of not more than \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than \$20,000, or by both that fine and imprisonment.

This bill would require a person who violates the animal abuse prohibitions described above to be punished by a fine of not more than \$5,000 for each violation, in addition to the fines described above. The bill would require those additional fines to be deposited into the Victims of Animal Abuse Fund, which would be established by the bill. The bill would require the Veterinary Medical Board to administer the fund, and would continuously appropriate all money deposited in the fund to

the board for the bill's purposes. The bill would generally require the board to use the money in the fund to compensate the owner or caretaker of an animal that requires medical care, rehabilitation, or recovery as a result of a violation of the animal abuse prohibitions described above for the costs incurred by the owner or caretaker for the animal's medical care, rehabilitation, or recovery. The bill would also require, in addition to any other penalty provided by law, a person who violates the animal abuse prohibitions described above in a rehabilitative facility for animals to pay for and successfully complete an appropriate counseling course, as determined by the court, designed to evaluate and treat behavior or conduct disorders. The bill would define "rehabilitative facility for animals" for these purposes as a facility at which medical care or rehabilitative services are provided to animals, including, but not limited to, an animal sanctuary, animal shelter, or aquarium. By increasing the penalties for existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 597 of the Penal Code is amended to
2 read:
3 597. (a) Except as provided in subdivision (c) of this section
4 or Section 599c, ~~every~~ a person who maliciously and intentionally
5 maims, mutilates, tortures, or wounds a living animal, or
6 maliciously and intentionally kills an animal, is guilty of a crime
7 punishable pursuant to subdivision (d).
8 (b) Except as otherwise provided in subdivision (a) or (c), ~~every~~
9 a person who overdrives, overloads, drives when overloaded,
10 overworks, tortures, torments, deprives of necessary sustenance,
11 drink, or shelter, cruelly beats, mutilates, or cruelly kills ~~any~~ an
12 animal, or causes or procures ~~any~~ an animal to be so overdriven,

overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of ~~any~~ *an* animal, either as *an* owner or otherwise, subjects ~~any~~ *an* animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses ~~any~~ *an* animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) ~~Every~~ A person who maliciously and intentionally maims, mutilates, or tortures ~~any~~ *a* mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) (1) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(2) (A) *A person who violates subdivision (a), (b), or (c) shall, in addition to the fines imposed pursuant to paragraph (1), be punished by a fine of not more than five thousand dollars (\$5,000) for each violation.*

(B) *The fines required by subparagraph (A) shall be deposited into the Victims of Animal Abuse Fund, which is hereby established in the State Treasury. For purposes of this paragraph, "fund" means the Victims of Animal Abuse Fund.*

(C) *The Veterinary Medical Board shall administer the fund consistent with this paragraph. Notwithstanding Section 13340 of the Government Code, all money deposited in the fund is hereby continuously appropriated to the Veterinary Medical Board, without regard to fiscal years, for the purposes of this paragraph.*

(D) *Except as provided in subparagraph (E), the Veterinary Medical Board shall use the money in the fund to compensate the owner or caretaker, including a nonprofit organization, of an animal that requires medical care, rehabilitation, or recovery as a result of a violation of subdivision (a), (b), or (c) for the costs*

1 incurred by the owner or caretaker for the animal's medical care,
2 rehabilitation, or recovery.

3 (E) (i) If the owner or caretaker of an animal that requires
4 medical care, rehabilitation, or recovery as a result of a violation
5 of subdivision (a), (b), or (c) is the person who violated any of
6 those subdivisions, the owner or caretaker shall not receive money
7 from the fund, and instead, money in the fund may be used to
8 compensate another person, including a nonprofit organization,
9 who incurs costs for the animal's medical care, rehabilitation, or
10 recovery.

11 (ii) If an animal that requires medical care, rehabilitation, or
12 recovery as a result of a violation of subdivision (a), (b), or (c)
13 has no identifiable owner or caretaker, money in the fund may be
14 used to compensate a person, including a nonprofit organization,
15 who incurs costs for the animal's medical care, rehabilitation, or
16 recovery.

17 (F) The Veterinary Medical Board may promulgate regulations
18 to implement this paragraph.

19 (3) (A) Except as provided in subdivision (h), a person who
20 violates subdivision (a), (b), or (c) in a rehabilitative facility for
21 animals shall, in addition to any other penalty provided by law,
22 pay for and successfully complete an appropriate counseling
23 course, as determined by the court, designed to evaluate and treat
24 behavior or conduct disorders. If the court finds that a defendant
25 is financially unable to pay for that counseling, the court may
26 develop a sliding fee schedule based upon the defendant's ability
27 to pay. An indigent defendant may negotiate a deferred payment
28 schedule, but shall pay a nominal fee if the defendant has the ability
29 to pay the nominal fee. If an indigent defendant cannot pay the
30 nominal fee, the fee shall be waived.

31 (B) For purposes of this paragraph, "rehabilitative facility for
32 animals" means a facility at which medical care or rehabilitative
33 services are provided to animals, including, but not limited to,
34 animal sanctuary, animal shelter, or an aquarium.

35 (e) (1) Subdivision (c) applies to ~~any~~ a mammal, bird, reptile,
36 amphibian, or fish ~~which~~ that is a creature described as follows:

37 (H)

38 (A) Endangered species or threatened species as described in
39 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
40 Fish and Game Code.

~~(2)~~

(B) Fully protected birds described in Section 3511 of the Fish and Game Code.

~~(3)~~

(C) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

~~(4)~~

(D) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

~~(5)~~

(E) Fully protected fish as described in Section 5515 of the Fish and Game Code.

(2) This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If ~~any~~ a person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g) (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other ~~provision~~ of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This ~~provision~~ *subdivision* specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

1 In order to provide victims of animal abuse with restitution for
2 the costs associated with medical care and recovery for animals
3 resulting from that abuse at the earliest possible time, it is necessary
4 for this act to take effect immediately.

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